

REMARKS

Claims 1-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Gollobin et al., U.S. Patent No. 5,330,438 (hereinafter: "Gollobin").

The position of the Office in this rejection is that the protective sheath of Gollobin includes each of the elements, i.e., limitations, of each of the claims of the present application. This position appears to be based, primarily, on a broad interpretation of the limitation in claim 1 of "the distal end portion of the slit being arranged to extend in a direction that is not parallel to the axial direction of the main body." Applicant believes that the Office, in view of the identification of the sheath of Figs. 3, 4, 7 and 8 of Gollobin as including this limitation, is interpreting the limitation as reading on the outwardly flared portions (V-shaped slots) at the distal most end of the slits of the protective sheath of Gollobin.

Claim 1 has been amended with the intended purpose of avoiding the Office's interpretation and to precisely recite the protector sheath for a winged needle of the present invention by reciting that at least three slits are provided in a side wall of the main body, each of the three slits comprising a proximal end portion having a slot with a closed end and capable of accommodating the

wing of the winged needle, a middle portion parallel to the axis of the main body and a distal end portion having a shallow V shape or an arched shape, the proximal end portion of the slit being configured such that it receives the wing so that the needle tube of the winged needle is arranged parallel to the axis of the main body, and the shallow V shape or arched shape slit of the distal end portion being arranged to extend in a direction that is not parallel to the axial direction of the main body. Claim 2 which recited the underlined limitations has been canceled. Claim 9, the limitations of which are redundant with the limitations recited in claim 1, has also been canceled.

The claims, in their original form and as amended, are respectfully submitted to distinguish over the protective sheath of Gollobin under 35 U.S.C. § 102 and 35 U.S.C. § 103(a). Claim 1 originally recited that the distal end portion of the slit "is arranged to extend in a direction that is not parallel to the axial direction of the main body." Claim 1, as amended, recites that the shallow V shape or arched shape slit of the distal end portion is arranged to extend in a direction that is not parallel to the axial direction of the main body."

None of the slits (or slots) of the protective sheath of Gollobin extend in a direction that is not parallel to the axial

direction of the main body. I.e., all portions of the slits of the protective sheath of Gollobin extend in a direction that is parallel to the axial direction of the main body. This may be seen by referring to the attached copies of sheets 2 and 3 of the drawings of Gollobin. As shown in the views which are Figs. 4 and 8, all distal portions of the slits of the protective sheath of Gollobin extend parallel to the axial direction of the main body. (The distal portion of the slits is circled in the drawings and the axial direction of the main body is indicated by an arrow).

It is noted that the forward ends of the fingers of the protective sheath of Gollobin are described as being V-shaped and having tapered inner edges 37 that form, what are termed in Gollobin, "V-shaped slots". The V-shaped slots of the protective sheath of Gollobin cannot properly be interpreted as corresponding to the recitation in claim 1 as amended of a "V shape or arched shape slit of the distal end portion ... arranged to extend in a direction that is not parallel to the axial direction of the main body" as that terminology would be interpreted by a person of ordinary skill in the art when read in light of the specification disclosure of the present application (as it must be according to the decisions of the CAFC). Although the walls of the V-shaped slots of the protective sheath of Gollobin extend in a direction

that is not parallel to the axial direction of the main body, the V-shaped slots, per se, extend in a direction that is parallel to the axial direction.

Claim 1, therefore, does not read on the protective sheath of Gollobin and is not anticipated by Gollobin within the meaning of 35 U.S.C. § 102.

The Office has identified the limitations of the dependent claims of the present application as being shown in various of the drawings of Gollobin. Although the dependent claims are prima facie patentable in view of the patentability of claim 1, applicant cannot understand where the limitation recited in claim 8, i.e., "a protrusion provided on a distal side of the proximal end portion of the slit where the wing is arranged", is shown in Figs. 2 and 4 of Gollobin. In the event that the rejection of the claims over Gollobin is maintained, clarification of this portion of the rejection is requested.

Removal of the 35 U.S.C. § 102 rejection of the claims and a formal notice of allowability of the claims are believed to be in order and are respectfully solicited.

The foregoing is believed to be a complete and proper response to the Office Action dated August 15, 2005, and is believed to place this application in condition for allowance. If, however,

PATENT APPLN. NO. 10/804,031
RESPONSE UNDER 37 C.F.R. §1.111

**PATENT
NON-FINAL**

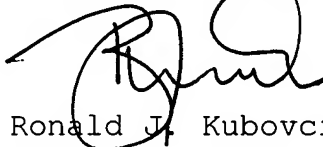
minor issues remain that can be resolved by means of a telephone interview, the Examiner is respectfully requested to contact the undersigned attorney at the telephone number indicated below.

In the event that this paper is not considered to be timely filed, applicant hereby petitions for an appropriate extension of time. The fee for any such extension may be charged to our Deposit Account No. 111833.

In the event any additional fees are required, please also charge our Deposit Account No. 111833.

Respectfully submitted,

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